

BRIAN SANDOVAL  
*Governor*

STATE OF NEVADA



BRUCE BRESLOW  
*Director, Business and Industry*

ANDREW J. MACKAY  
*Chairman*

MONICA B METZ  
*Commissioner*

GEORGE ASSAD  
*Commissioner*

DEPARTMENT OF BUSINESS AND INDUSTRY  
**NEVADA TRANSPORTATION AUTHORITY**

**MINUTES OF THE November 1, 2012 GENERAL SESSION**

**AGENDA**

**1. Call to Order**

*Chairman MacKay called the General Session to Order at approximately 9:35 a.m.*

**2. Roll Call**

*Present in Las Vegas: Commissioner Monica B Metz, Commissioner George Assad, Administrative Attorney James Day, Applications Manager Liz Babcock, Financial Analyst Yvonne Shelton, Financial Analyst Lidia Aronova, Chief of Enforcement Michael Bradford, and Senior Deputy Attorney General David Newton. Present in Reno: Chairman Andrew J. MacKay and Deputy Commissioner Marilyn Skibinski.*

**3. Pledge of Allegiance**

*Commissioner Monica Metz led a recital of the pledge.*

**4. Public Comment:**

*None.*

**5. Approval of Agenda**

*Administrative Attorney Jim Day asked that Item 19 be considered separately. Applications Manager Liz Babcock asked that Items 44 and 45 be considered last in anticipation of substantial discussion. Commissioner Metz asked for Senior Deputy Attorney General Newton's opinion on the adequacy of Item 50, and that Item 59 be pulled. Senior Deputy Attorney General Newton opined that Item 50 provided adequate notice. Commissioner Metz proposed that Item 50 be reworded to match the indicated Docket Number. Approved 3-0 with the modifications as requested by Administrative Attorney Jim Day, Applications Manager Liz Babcock and Commissioner Metz.*

**6. Approval of the Minutes of the September 27, 2012 Agenda Meeting**

*Approved 3-0.*

**7. Briefings from the Commissioners**

*No briefings from Commissioners Metz or Assad. Chairman MacKay thanked the Authority Staff for their support during his recent family medical issue.*

**8. Briefing from the Deputy Commissioner**

*None.*

## **9. Report of Legal Counsel**

*Senior Deputy Attorney General Newton reported on the status of Two College Guys and the A. R. Fairman appeals.*

### **ADMINISTRATIVE CITATIONS AND IMPOUNDMENTS**

*Items 10 thru 39 except Item 19 were considered collectively and approved 3-0.*

**10. Citation 15954** issued to Ian Jung for violations of NRS 706.386 and NRS 706.758. (AJM)

**11. Impound 1691.** The impoundment pursuant to NRS 706.476 of a vehicle registered to Michael M. and Pamela Jung. (AJM)

**12. Impound 1690 and Citation 15953.** The impoundment pursuant to NRS 706.476 of a vehicle registered to and Citation 15953 issued to Thomas Buckler for violations of NRS 706.386 and NRS 706.758. (AJM)

**13. Citation 13669** issued to Ryan's Express Transportation Inc. for violations of NAC 706.381(1) and NAC 706.170. (MBM)

**14. Citation 13670** issued to LD Tours, LLC for violation of NAC 706.381(1). (MBM)

**15. Citation 15398** issued to Stardust Limousine, Inc., for violations of NAC 706.149 and NRS 706.398. (MBM)

**16. Citation 15563** issued to Rush In Towing, LLC for a violation of NAC 706.191. (MBM)

**17. Citation 15860** issued to Clarence Adams Jr. for a violation of NRS 706.386. (MBM)

**18. Citation 15958** issued to Chad Deihl for violations of NRS 706.386 and NRS 706.758. (MBM)

**19. Citation 15931** issued to Rapid Tow for violations of NAC 706 as amended by LCB File No. R075-08 (2 counts) and NAC 706.420. (MBM)

*Senior Deputy Attorney General Newton indicated the Respondent had provided proof of refund of tow fees – Approved as written 3-0.*

**20. Citation 15980** issued to Chong Cho for violations of NRS 706.386 and NRS 706.758. (MBM)

**21. Impound 1572** The impoundment pursuant to NRS 706.476 of a vehicle registered to Usong Cho. (MBM)

**22. Impound 1692** The impoundment pursuant to NRS 706.476 of a vehicle registered to Russell Alan Deihl. (MBM)

**23. Impound 1553 and Citation 15952** The impoundment pursuant to NRS 706.476 of a vehicle registered to and Citation 15952 issued to Kiaffa Love for violations of NRS 706.386 and NRS 706.758. (MBM)

- 24. Impound 1693 and Citation 15957** The impoundment pursuant to NRS 706.476 of the vehicle registered to and Citation 15957 issued to Lance Davis for violations of NRS 706.386 and NRS 706.758. (MBM)
- 25. Citation 15565** issued to Southern Nevada Movers, Inc. for a violation of NAC 706.247/49 CFR 382.301(a). (GA)
- 26. Citation 15566** issued to King of the Road d/b/a Van-2-School for a violation of NAC 706.247/49 CFR 382.305. (GA)
- 27. Citation 15926** issued to Monarch Movers/Robert and Joanne Cuadros for violation of NRS 706.758. (GA)
- 28. Citation 15977** issued to National Transportation Services, Inc. for a violation of NAC 706.247/49 CFR 391.11. (GA)
- 29. Citations 15978 and 15979** issued to The Tow Truck Co., Inc. for violations of NAC 706.356, NAC 706.206 and NAC 706.203. (GA)
- 30. Impound 1694 and Citation 15959.** The impoundment pursuant to NRS 706.476 of the vehicle registered to and Citation 15959 issued to Luis Canseco De La Pena for violations of NRS 706.386 and NRS 706.758. (GA)
- 31. Impounds 1977 and 2000 and Citation 15956.** The impoundment pursuant to NRS 706.476 of two vehicles registered to and Citation 15956 issued to Humberto Ortiz for violations of NRS 706.386 and NRS 706.758. (GA)
- 32. Citation 15567** issued to LTS Transportation, Inc. d/b/a Larry's Towing and Transport for violations of NAC 706.247/49 CFR 391.43 (2 counts).
- 33. Citation 15745** issued to CMAC/Jeffrey S. Ducate for a violation of NRS 706.156(2).
- 34. Citation 15747** issued to Yohanes Abraha for violations of NAC 706 as amended by LCB File No. R127-07(1) and NAC 706.228(3) as amended by LCB File No. R127-07.
- 35. Citation 15875** issued to Michael Singleton for a violation of NAC 706.228 as amended by LCB File No. R127-07.
- 36. Citation 15928** issued to Abraham Limo for a violation of NAC 706.381.
- 37. Citation 15930** issued to 777 Towing for violations of NRS 706.758 and NRS 706.386 (3 counts).
- 38. Citation 15951** issued to Bryant Johnson for a violation of NAC 706.228 as amended by LCB File No. R127-07.
- 39. Citation 15985** issued to Robert William Booterbaugh for violations of NRS 706.386 and NRS 706.758.

## **APPLICATIONS FOR CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY TO PROVIDE CHARTER BUS SERVICE**

**40. Docket No. 12-06013** The Application of In-Cahoots Events, LLC d/b/a Lil Pink Party Bus for a certificate of public convenience and necessity to provide charter bus service within the State of Nevada. Staff investigation concluded. (MBM)

*Mr. Mike Ceragioli and Dave White were present on behalf of the Applicant. Applications Manager Liz Babcock summarized the Application and indicated Staff support. Approved 3-0.*

## **APPLICATIONS FOR WAREHOUSE PERMITS**

**41. Docket No. 12-01019** The Application of Silver State Electronic Movers, Inc. for a Warehouse Permit. Staff investigation concluded. (AJM)

*Applications Manager Liz Babcock summarized the Application and indicated Staff support. Approved 3-0.*

**42. Docket No. 12-07029** The Application of Oasis Moving and Storage, Inc. for a Warehouse Permit. Staff investigation concluded. (GA)

*Applications Manager Liz Babcock summarized the Application and indicated Staff support. Commissioner Assad concurred with Staff as Hearing Officer. Administrative Attorney Jim Day reported that he and Commissioner Assad had confirmed the issuance of a fire permit, and that the Applicant currently holds warehouse Permit 15 for another location. Commissioner Metz requested that Staff include the fire permit in binder materials for future warehouse applications. Approved 3-0.*

## **FINANCIAL RATES AND TARIFFS**

**43. Docket No. 10-06009** The Application of John Baker Enterprises, Inc. d/b/a Emerald Bay Towing for approval of a tariff rate modification for tow car services conducted under Certificate of Public Convenience and Necessity 7081, Sub 2. Staff investigation concluded.

*Michael Keller of AAA Insurance appeared as Protestant in this matter. Mr. Keller reported that his research showed tows were all at least 1.5 hours, not the ½ hour reported by Mr. Baker. Mr. Baker was present on behalf of the Applicant and disputed Mr. Keller's claims. Chairman MacKay stated that he supported approval of the Application, noting that the Authority could later investigate the rates if Mr. Keller documents an issue with the approved rates. Commissioner Metz noted that the proposed rates are within the current range in the geographic region. Approved 3-0.*

**44. Docket No. 12-01018A** The NTA Investigation of Non-Consent Tow Tariff Rates for reconsideration of particular instances where carriers' rates fall outside of the range of rates which are commonly used by the towing industry. Staff investigation concluded. (AJM)

*Applications Manager Liz Babcock summarized the method used for determining the outliers. Commissioner Metz suggested notifying the outliers individually of a Hearing to discuss the outlying rates. A discussion ensued with regard to noticing requirements and a determination was made to utilize the current docket number.*

**45. Docket No. 12-01018B** The NTA Investigation of Non-Consent Tow Tariff Rates for reconsideration of rate types and ranges that may not be considered just and reasonable pursuant to NRS 706.311. The Authority will discuss and determine the appropriate process for addressing such rates. Staff investigation concluded. (AJM)

*Applications Manager Liz Babcock summarized the three main points needing clarification. 1) Rates being charged in various geographic areas. Clark Whitney, Tow Guys, noted that the only difference he could see between urban and rural is cost of land, storage and office space. 2) Whether a tape fee is a just and reasonable fee. 3) How to investigate current rates to determine just and reasonable charges. A discussion ensued and a determination made that a letter be sent to the carriers to determine why certain rates are charged.*

- 46. Docket No. 12-09016** The Application of AWG Ambassador, LLC d/b/a Ambassador Limousine for approval of a tariff rate modification for limousine services conducted under Certificate of Public Convenience and Necessity 1041, Sub 4. Staff investigation concluded.

*See Item 48 below.*

- 47. Docket No. 12-09017** The Application of AWG Ambassador, LLC d/b/a AWG Charter Services for approval of a tariff rate modification for limousine services conducted under Certificate of Public Convenience and Necessity 1068, Sub 4. Staff investigation concluded.

*See Item 48 below.*

- 48. Docket No. 12-09018** The Application of AWG Ambassador, LLC d/b/a Ritz Transportation for approval of a tariff rate modification for charter limousine services conducted under Certificate of Public Convenience and Necessity 1089, Sub 2. Staff investigation concluded.

*Items 46-48 were considered collectively. No one was present on behalf of the Applicant. Applications Manager Liz Babcock summarized the Applications and noted that Item 48 did not include rate change as in Items 46 and 47. Commissioner Metz noted that the Applicant had made several changes in response to her feedback. Commissioner Metz proposed that with respect to the 60,000 estimated volume threshold, language be added to indicate "at the time of booking." Senior Deputy Attorney General Newton expressed a concern from Enforcement Staff regarding the challenge of confirming the reasonableness of such estimates. Items 46-48 were approved 3-0.*

- 49. Docket No. 12-09038** The Application of Ewing Bros., Inc. d/b/a Walker Towing for approval of a tariff rate modification for tow car services conducted under Certificate of Public Convenience and Necessity 7023, Sub 2. Staff investigation concluded.

*Applications Manager Liz Babcock summarized the Application and indicated Staff support. Mr. David Walker was present on behalf of the Applicant. Approved 3-0.*

- 50. Docket No. 12-10003** At the request of the Authority Staff, the Authority will consider, pursuant to NAC 706.305 and NRS 706.331, whether to order modifications to the tariff of Ken Lehman Enterprises, Inc. d/b/a South Strip Towing (CPCN 7008, Sub 1), including but not limited to reducing after hours, lot visit, set out, and storage rates to match the amounts charged by an affiliated company operating at the same location.

*Applications Manager Liz Babcock summarized the Application and indicated Staff support. Camilla Sparks and Bruce San Filippo were present on behalf of South Strip Towing. Michael Keller, AAA, questioned when the rates would become effective. Commissioner Metz stated the tariff could be made effective today's date, Nov. 1, 2012. Approved 3-0.*

- 51. Docket No. 12-10006** The Application of All About Service, Inc. for approval of a tariff rate modification for charter limousine services conducted under Certificate of Public Convenience and Necessity 1116. Staff investigation concluded.

*Applications Manager Liz Babcock summarized the Application, reported that the Applicant had agreed to a minor re-wording requested by Commissioner Metz, and indicated Staff support. Approved 3-0.*

**52. Docket No. 12-10007** The Application of Bell Trans a Nevada Corporation d/b/a Bell Trans, Bell Limousine for approval of a tariff rate modification for charter limousine services conducted under Certificate of Public Convenience and Necessity 1023, Sub 2, Tariff 2-A. Staff investigation concluded.

*Jeffrey Silver, Esquire was present on behalf of the Applicant. Applications Manager Liz Babcock summarized the Application and indicated Staff support. Approved 3-0.*

**53. Docket No. 12-10013** The Application of B & E, Inc. d/b/a SNAP Towing for approval of a tariff rate modification for tow car services conducted under Certificate of Public Convenience and Necessity 7042, Sub 2. Staff investigation concluded.

*Applications Manager Liz Babcock summarized the Application and indicated Staff support. Approved 3-0*

**54. Docket No. 12-10014** The Application of Abraham Limo Service, Inc. d/b/a ALV for approval of a tariff rate modification for limousine services conducted under Certificate of Public Convenience and Necessity 1104, Sub 1. Staff investigation concluded.

*Attorney Kimberly Maxson-Rushton was present on behalf of the Applicant. Applications Manager Liz Babcock summarized the Application and indicated Staff support. Approved 3-0.*

**55. Docket No. 12-10022** The Application of Sunrise Plaza Transportation of Nevada for approval of a tariff rate modification for special services conducted under Certificate of Public Convenience and Necessity 2028, Sub 1. Staff investigation concluded.

*Attorney Brian Boggess was present on behalf of the Applicant. Administrative Attorney James Day summarized the Application and procedural history and indicated Staff support. Approved 3-0 as modified in the Interim Order dated October 23, 2012.-*

### **APPLICATIONS FOR FULLY REGULATED CARRIERS**

**56. Docket No. 11-04015** The Application of A & R Delivery Service, for a certificate of public convenience and necessity to provide transportation of household goods within the State of Nevada. (AJM)

*Chairman MacKay abstained from consideration of the Application as he had not had the opportunity to review the record in the matter. Commissioner Assad summarized the Application and recommended approval as set forth in his proposed Order. Approved 2-0 with Chairman MacKay abstaining.*

**57. Docket No. 11-09017** The Application of Martin Ross & Associates, LLC for a contract carriers permit to provide prisoner transportation services pursuant to a contract with the State of Nevada and the Applicant's request to extend the interim/temporary approval of their Application due to exigent circumstances. The interim/temporary authority was never actually issued due to noncompliance with the Authority's Order. Staff investigation of Request concluded. (AJM)

*Applications Manager Liz Babcock summarized the Application and procedural history. Ms. Babcock identified concerns relating to the registration of two vehicles and confirmation of the Applicant's financial equity figures. Executive Director Jason Patterson was present on behalf of the Applicant. Mr. Patterson stated that the Applicant is the only current provider of such services in Nevada. Commissioner Assad voiced concerns about allowing the carrier to continue to operate unlawfully, noting that the deadline for compliance items was August 1, 2012 and that Staff opposed the Application. Commissioner Metz proposed extending the compliance period and the expiration of the interim authority through the next subsequent general session of the full Authority. Senior Deputy Attorney General*

*Newton suggested granting interim authority effective immediately to avoid the situation where the carrier continues to operate unlawfully. Commissioner Metz moved to grant interim authority effective immediately through the next general session.*

*Motion to grant Interim/Temporary Authority and extend compliance period to next general session. Approved 2-1, with Commissioner Assad opposed.*

- 58. Docket No. 12-04018** The Request for a temporary discontinuance from April 12, 2012 through October 12, 2012 of services provided by CUSA K-TCS, LLC d/b/a CoachAmerica and d/b/a Gray Line Airport Shuttle granted under CPCN 2016, Sub 2 and 2115, respectively. Staff investigation concluded.

*Applications Manager Liz Babcock summarized the docket and indicated Staff does not recommend an Order to Show Cause. No action taken.*

- 59. Docket No. 12-09019** The Authority will consider whether to adopt the United States Surface Transportation Board's approval of the sale and transfer of CPCN 2016, Sub 2 from CUSA K-TCS, LLC d/b/a CoachAmerica and CPCN 2115 from CUSA K-TCS, LLC d/b/a Gray Line Airport Shuttle to Evergreen Trails, Inc. d/b/a Horizon Coach Lines. Staff investigation concluded. (MBM)

*This item was tabled prior to consideration.*

### **ORDERS TO SHOW CAUSE**

- 60. Docket 12-08013.** The Order to Show Cause issued to All My Sons Moving and Storage of Las Vegas, Inc. for violations of NRS 706.167 and NRS 706.398. (MBM)

*Commissioner Metz summarized the hearings held on this matter and recommended the Certificate not be revoked. Hearing officer recommendations approved 3-0.*

- 61. Docket 12-08014.** The Order to Show Cause issued to A Limousine Company, LLC for violations of NRS 706.167 and NRS 706.398. (MBM)

*Commissioner Metz summarized the hearings held on this matter and recommended the Certificate not be revoked. Hearing officer recommendations approved 3-0.*

### **DISCUSSION ITEMS**

- 62. Docket No. 12-10018** The Authority will discuss the inquiry received on September 26, 2012 from Tom Wright of Ewing Bros., Inc. (CPCN 3269 and 7023.2) regarding NAC 706.442, which provides in pertinent part, "*The operator of a tow car shall not give any remuneration or other consideration to any person who requests, authorizes or in any way notifies the operator of a potential tow. Providing signs to a property owner which display the name, address and telephone number of the operator of a tow car is not remuneration for the purposes of this section.*" Mr. Wright posed the following two questions: 1) Is physical installation of signs by the tow operator moving beyond "providing" and crossing the line into remuneration by virtue of providing the labor to install those signs?; and 2) Are stickers a form of a sign and allowed to be provided gratis under NAC 706.442?

*Tom Wright, Ewing Brothers, was present. Commissioner Metz stated her opinion was the labor to install does not cross into remuneration, the provision of stickers is acceptable until such time as the "walk and tag" has been fully decided. Chairman MacKay and Commissioner Assad concurred. Senior Deputy Attorney General Newton stated stickers are not considered a sign. David Walker, Walker Towing, stated stickers are not only used for walk and tag – they are utilized at other times. Motion to adopt the answers set forth and agreed upon to be placed into the docket as written order. Approved 3-0.*

**63. Public Comment**

*Clark Whitney, Tow Guys, asked whether the NTA website could reflect all carriers' current tariff rates so as not to burden Authority Staff with copy requests.*

**Adjournment**

*Meeting was adjourned at approximately 1:05 p.m.*